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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,575	08/08/2005	Eric J. Baculy	BAC02 P-305	6546

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EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

MAIL DATE	DELIVERY MODE
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11/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/524,575

Applicant(s)

BACULY, ERIC J.

Examiner

Árpád Fábián Kovács

Art Unit

3671

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10/31/2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection:

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 9.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

/Arpad F Kovacs/  
Árpád Fábián Kovács  
Primary Examiner

Continuation of 11. does NOT place the application in condition for allowance because:

In re Wiley:

Claim 9 recites: "tool implement defining an aperture having a central portion and a plurality of arms" whereas the examiner pointed to an aperture or hole through which the washer will pass through, and as shown in the marked up drawing on page 2, the tool implement having plurality of arms (4 shown; but the claim only requires at least 2 or "plurality of arms");

It appears that the applicant was confused, just as anyone could be considering the claim recites "plurality of arms" for the tool implement & the washer. The examiner in the marked up fig. shown on pg. 3, refers to the other recitation found in claim 9: "one piece stabilizing washer" having a central hub which is shown the are surrounding ref 44 (which is the countersunk central hole) and a plurality of arms which are the arms at ref 42 (side edges) and/or as marked up on the 3rd page in the rejection, the area where the "common point 72" & "notches 76" (or pin for claim 8 which is now proposed to be cancelled, and for ease of describing the arms that are different from the region shown at side edges ref 42). There are at least 2 positions/orientations relative to the tool implement as disclosed.

Applicant argues that the washer is made up of 8 pieces. The washer is used as one piece washer, only operate as intended when considered as one piece. Therefore all the elements applicant listed act as one unified piece as currently claimed.

In re Tygh: again, the "pin" is not claimed in claim 9, instead it is to address the proposed cancelled claim 8; the recitation of "plurality of arms" is being addressed in re cl. 9.

Applicant argues that Tygh device has uses beyond what is claimed. However, as claimed it does not limit other elements to be used with the blade and or other uses thereof. Claim 9 recites a tool implement and a washer. Each of them having a plurality of arms (for the blade 28 or 30 as pointed to in fig 1; for the washer ref 40 as pointed to in fig 2). Thus, a user capable of turning the washer arms to line up with the arms of ref 30 or 28 of the blade/implement, so that the washer can pass through the blade/implement hole (and blade "arms"), and in a second (slight turn thereof) can prevent the washer sliding out.